

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 05-cr-057-JD

Gordon Reid

O R D E R

Gordon Reid has moved on the second day of trial to exclude the government's footprint evidence on the ground that the government did not disclose the examination and tests done on footprints found near the scene of the robbery in a timely manner. Federal Rule of Criminal Procedure 16(a)(1)(F) requires the government to disclose, at the defendant's request, "the results or reports of any physical or mental examination and of any scientific test or experiment" if the information is in the government's control, the prosecutor knows or should know the information exists, and the information is material to the defense or will be used by the government in its case at trial. The local rules in this district require the government to disclose the information and materials discoverable under Federal Rule of Criminal Procedure 16(a)(1), without waiting for the defendant's demand, within fourteen days of the defendant's arraignment absent agreement to the contrary. LCrR 16.1(a)(1).

Reid represents that Timothy Jackson analyzed footprint evidence from the area of the robbery for the government on April

20, 2005.¹ Reid also represents that he did not receive information about the footprint evidence and its analysis until November 21, 2005, long after the fourteen-day deadline. The government has not had the opportunity to respond to Reid's motion.

Reid's motion is itself untimely. See LCrR 12.1(b). In addition, Reid acknowledges that the footprint evidence was disclosed to him months ago, which gave him ample opportunity to prepare a defense to that evidence. Therefore, despite the time limit in the local rule, the testimony of the government's witness pertaining to the footprint evidence will not be excluded.

Conclusion

For the foregoing reasons, the defendant's motion in limine pertaining to footprint testimony (document no. 151) is denied.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

February 13, 2006
cc: Gordon Reid, pro se
Helen W. Fitzgibbon, Esquire
Clyde R.W. Garrigan, Esquire
Michael J. Iacopino, Esquire

¹Although Reid refers to "Case Notes" that were to be appended to his motion, no appendix was filed. The government identifies Timothy A. Jackson, on its witness list, as a criminalist with the New Hampshire State police Forensic Laboratory.